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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,174	09/24/2003	Takahiro Hanamoto	242436US3X	4039

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EXAMINER

BRAHAN, THOMAS J

ART UNIT

PAPER NUMBER

3654

DATE MAILED: 01/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)	
10/668,174	HANAMOTO, TAKAHIRO	
Examiner	Art Unit	
Thomas J. Brahan	3654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The following is a quotation of the second paragraph of 35 U.S.C. § 112:
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which applicant regards as his invention.
2. Claims 1 and 3-6 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, line 12, the limitation "said smaller-diameter portion not including shafts of the winches" renders the claims indefinite, as the shafts of the winches are at the smaller diameter portions. The limitation is also improper as it attempts to define the structure by stating what the structure is not, rather than positively and distinctly pointing out the subject matter of the claim. New claim 6 has a similar recitation in line 13.
3. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
4. Claims 1, 3, 5 and 6, as best understood, are rejected under 35 U.S.C. § 103(a) as being unpatentable over Pech et al in view of Boyer. Pech et al shows a traveling working machine comprising:
a lower traveling body (16);
an upper rotating body (14) mounted rotatably on the lower traveling body, the upper rotating body having a rotating frame (21) and winches;
a boom (22) mounted on said upper rotating body so as to be capable of rising and lowering; and
a pair of right and left frames which support the boom formed in the rotating frame to pivotally support both right and left sides of a rear end portion of the boom, axial portions of the winches, including maximum-diameter portions of the winches, being mounted inside rear portions of the frames which support the boom, the frames which support the boom having recessed cut-outs along smaller-diameter portions of the winches other than the maximum-diameter portions, wherein the rear portions of said frames which support the boom each comprise a fixed frame and winch openings are formed at the recessed cut-outs of the fixed frame.
Pech et al shows the recesses for mounting the winches to the frame (21), but varies from the claims, as best understood, by not showing detachable frame portions as the means for mounting the winches within the recesses with the recesses not sandwiching the axles. Figure 3 of Boyer shows a crane winch mounting arrangement with detachable frames (15a-15d) with recesses that sandwich the winch unit smaller diameter portions, such as at the reduction gear housing (19) but not at the axles themselves.

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It would have been obvious to one of ordinary skill in the art at the time the invention was made by applicant to modify the winch mountings of Pech et al by completing the disclosed winch recesses by providing them with detachable frames with recesses engaging reduction gear housings and bearing housings, as to remove the drive unit as a whole from the recesses, as taught by Boyer. The openings of both the fixed and the detachable frames (caps) are generally circular in shape and formed along the outer peripheries of the smaller-diameter portions of the winches, as recited in claim 3. The winches are mutually disposed longitudinally at the rear portions of the boom frames, as recited in claim 5. Pech et al has counterweight mounting portions at the rear portions of the boom support frames, as recited in claim 6.

5. Claims 1 and 3-5, as best understood, are rejected under 35 U.S.C. § 103(a) as being unpatentable over Harnischfegger in view of Boyer. Harnischfegger shows a traveling working machine comprising:

- a lower traveling body (16);
- an upper rotating body mounted rotatably on the lower traveling body, the upper rotating body having a rotating frame (2) and winches;
- a boom (4) mounted on said upper rotating body so as to be capable of rising and lowering; and
- a pair of right and left frames which support the boom formed in the rotating frame to pivotally support both right and left sides of a rear end portion of the boom, axial portions of the winches, including maximum-diameter portions of the winches, being mounted inside rear portions of the frames which support the boom, the frames which support the boom having recessed cut-outs along smaller-diameter portions of the winches other than the maximum-diameter portions, wherein the rear portions of said frames which support the boom each comprise a fixed frame and winch openings are formed at the recessed cut-outs of the fixed frame.


Harnischfegger shows the recesses for mounting the winches to the frame (2), but varies from the claims, as best understood, by not showing detachable frame portions as the means for mounting the winches within the recesses with the recesses not sandwiching the axles. Figure 3 of Boyer shows a crane winch mounting arrangement with detachable frames (15a-15d) with recesses that sandwich the winch unit smaller diameter portions, such as at the reduction gear housing (19) and the opposing side's bearing housing, but not at the axles themselves. It would have been obvious to one of ordinary skill in the art at the time the invention was made by applicant to modify the winch mountings of Harnischfegger by completing the disclosed winch recesses by providing them with detachable frames with recesses engaging reduction gear housings and bearing housings, as to remove the drive unit as a whole from the recesses, as taught by Boyer. The openings of both the fixed and the detachable frames (caps) are generally circular in shape and formed along the outer peripheries of the smaller-diameter portions of the winches, as recited in claim 3. The winches are mutually disposed vertically at the rear portions of the boom frames, as recited in claim 4, and longitudinally, as recited in claim 5.

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6. Applicant's argues in the amendment filed October 6, 2005, that one of ordinary skill in the art would be apprised of the scope of claim 1. However it is not clear as to how the claim can recite that the frame has cutouts along smaller diameters portion of the winches, and that these smaller portion do not include the shaft, when, as shown in figure 5, the portions do include the shaft. If applicant is attempting to claim that the smaller diameter portions do not have the diameter which is the diameter of a shaft, this is a different limitation than found in the claims. The claim is specific to the location of the smaller diameter portion. As to the negative limitation argument, negative limitations do not always make a claim indefinite, only when the claim is not clearly understood. Applicant's arguments regarding the combining of the references for the "sandwiching" of the smaller-diameter portions of the winches appear to be drawn to aspects of the sandwiching which are much more specific than as recited in the claims. An upper bracket placed over a lower bracket or recess sandwiches the hoist portion in a vertical direction. This is conventional in the art, as shown by the Boyer reference. It is also a detail that is omitted from includes details which are not recited in the claims. The suggestion or motivation for the rejection is not really modifying the primary references, it is merely filling in a conventional detail omitted from them. THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. An inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Brahan whose telephone number is (571) 272-6921. The examiner's supervisor, Ms. Katherine Matecki, can be reached at (571) 272-6951. The new fax number for all patent applications is (571) 273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Questions regarding access to the Private PAIR system, should be directed to the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Thomas J. Brahan
Primary Examiner
Art Unit 3654